

MDOT RESPONSE TO DLS ANALYSIS

DLS Major Issues – Transportation Allowance

1. MDOT’S TTF Forecast Underestimates Potential Revenue Attainments

The Department of Legislative Services (DLS) recommends that MDOT discuss with the committees the assumptions that underpin its fiscal 2004 through 2009 TTF forecast, including discussing why the forecast has not assumed that MDOT will use more of the debt capacity that is made available by the forecasted revenues and why the forecast does not make assumptions regarding revenue attainments that align with those made in the administration’s general fund forecast. (Page 9)

MDOT Response:

The Department strives to maintain the goal of “consistent, stable funding for transportation” through prudent financial management of its resources. This process starts with the development of the Department’s Six-year Financial Forecast. The growth rates for the major revenues shown in FY 2004 and FY 2005 represent the consensus forecast of the MDOT, the DLS, and the Bureau of Revenue Estimates. Each year, representatives from these three offices combine their forecasting talents to develop revenue projections that best reflect the underlying economic conditions expected in the State of Maryland. These projections become the basis of the Department’s forecast, and to the extent they are conservative reflects the level of uncertainty expressed by these three offices.

The next focus is forecasting the four remaining years of the financial plan. The Department tries to be fiscally astute in its financial planning because when publishing the Consolidated Transportation Program (CTP), we are promising the funds will be available to build this list of capital projects for the next six years. The forecasting method used to accomplish this task is regression analysis. This method produces a trend-line projection of future values. The Department builds its six-year forecast around this line. Monthly receipts can come in above or below the trend-line. The Department uses these fluctuations to measure the accuracy of the current year projections developed by the three offices, but does not change its six-year forecast based on the movement of a few months of receipts.

The total revenue and expenditure forecasts are then used to project the level of bond sales that will be needed to support the capital program. This year’s CTP was developed in coordination with the efforts of the Transportation Task Force. The Department is aware that additional debt capacity exists, and wants to use it as part of the overall solution to address the unfunded capital needs identified by the task force.

The DLS analysis is correct in that two items are not included in the Trust Fund forecast: the repayment of the Trust Fund transfer to the General Fund, and the additional Corporate Income Tax revenues from the Delaware Holding Companies. The CTP and Transportation Trust Fund forecast had been finalized before these items were known.

MDOT RESPONSE TO DLS ANALYSIS

DLS Major Issues – Transportation Allowance, cont.

2. FY 2004 Working Appropriation (Page 15)

To ensure that the working appropriation numbers published in the Governor’s Budget Book will be correct in future years, DLS recommends that the General Assembly adopts provisions in the BFRA of 2004 that:

- **require that only funds appropriated by the General Assembly or by budget amendment approved by the Governor shall be included in the current fiscal year working appropriation column in the operating budget detail that is submitted to the General Assembly in conjunction with the allowance; and**
- **require that the working appropriation detail for the capital budget reflects the figures shown for the fiscal year in the final CTP.**

MDOT Response:

MDOT respectfully does not concur with the recommendation.

Operating Budget - MDOT believes it is more valuable for the General Assembly to be advised of changes needed in the operating appropriation for the current year, once budget amendments have been submitted to the Department of Budget and Management, and MDOT has a reasonable expectation that the Governor will approve the changes. Because the amended figures for the current year often serve as the basis for the figures in the allowance year, failure to include the proposed amended figures would provide the General Assembly with an inaccurate picture of the relationship between the two years. MDOT will work closely with DBM to improve the process by which MDOT amendments are completed, submitted, reviewed, and approved for inclusion in the Governor’s Budget Book.

Final CTP - MDOT perseveres to ensure that working appropriation detail for the capital budget reflects the figures shown for the fiscal year in the final CTP. During the preparation of the FY 2005 capital allowance, MDOT inadvertently juxtaposed several figures between special and federal funds in FY 2004 in the budget programs developed for major IT development projects. These are new capital programs at MDOT, and in the future, MDOT will take additional measures to ensure that all funds for these programs reflect the final CTP.

MDOT RESPONSE TO DLS ANALYSIS

DLS Major Issues, Transportation Allowance, cont.

3. Reauthorization of Federal Transportation Spending Delayed

MDOT should discuss with the committees its current assumptions for future federal aid attainment as well as the impact that continued delay in the reauthorization of federal transportation spending could have on ongoing and planned capital projects, including the ICC. (Page 22)

MDOT Response:

The next federal surface transportation authorization act will determine the federal program and structure for a multi-year period, most likely for six years (FFY-2004-2009). Depending on congressional action, funding levels are expected to be slightly higher than the current levels.

As the precise amount of federal funds that will be available to the Department over the 2004-2009 six-year program period will not be known until completion of the reauthorization of federal surface transportation programs, the Department's forecast of future federal aid has been conservative. Our conservative "middle of the road" estimate of future federal funds will avoid over committing the program should the funds received not meet expectations.

The federal funding forecast is based upon the current funding available under TEA-21. The Transportation Equity Act for the 21st Century (TEA-21) authorized funding levels for transit and highways for federal fiscal years (FFY) 1998 through 2003. TEA-21 authorized a guaranteed minimum level of highway and transit funding which has resulted in significantly higher funding than previous acts – 40 percent higher than the previous act.

TEA-21 expired September 30, 2003, and Congress passed a short-term extension of the authorization until February 29, 2004. If agreement on the final bill cannot be reached at that time, another extension will be considered.

The ability to complete the program as scheduled, will, of course, depend upon actual federal appropriations. Transit funding is of particular concern. An estimated 50 percent of the transit funds are discretionary and are dependent on annual appropriation earmarks. Federal highway programs are authorized by multiple-year legislation. The funds authorized and apportioned to the states are subject to annual ceilings, which determine how much of the authorized money can be obligated in a given year. This ceiling is referred to as Obligation Authority (OA) and is imposed by Congress annually in response to prevailing economic policy. Under ISTEA, which authorized funds from federal fiscal year 1992 through federal fiscal year 1997, OA ranged from 80.5 percent to 105.3 percent. The 2004-2009 CTP assumes the level of OA from TEA-21 at 87 percent of apportioned funds for FFY 2003 and thereafter.

J00 – MDOT Overview

MDOT RESPONSE TO DLS ANALYSIS

DLS Major Issues, Transportation Allowance, cont.

Impact of Another Extension:

Maryland will not experience any significant impact from another extension of the reauthorization legislation in terms of project development. Lack of the multi-year bill will, no doubt, hamper the ability of industry and the department to plan new or additional long term projects. However, given federal funding levels for FY 04, the projects in the CTP will continue. Maryland received an increase in funds through the recently enacted FY 04 appropriations legislation. For highways, the obligation ceiling increase from \$465 million in FY 03 to \$490 million – a \$25 million increase. These figures are higher than were assumed in our program. Nationwide transit formula funding was increased by 7.7%. In addition, Maryland obtained a total of 208.45 million in transit funds in FY 04 compared to \$188.8 million in FY 03. (These figures include \$105 million for two ongoing new start transit projects, Baltimore Double Tracking and Metro Extension to Largo).

Lack of a new federal authorization bill does delay authorization of any new transit projects. New Start funds are not used during the current ongoing project planning stage but are essential as these projects move further into the development phase.

Expected Funding Levels in the Next Reauthorization Legislation:

We are in agreement with the analyst's figures provided on page 17 of the write-up comparing the various version of the new legislation.

MDOT RESPONSE TO DLS ANALYSIS

Recommended Actions – Transportation Allowance

1. Add annual language requiring notification of changes to the transportation capital program (Page 23):

It is the intent of the General Assembly that projects and funding levels appropriated for capital projects, as well as total estimated project costs within the Consolidated Transportation Program (CTP), shall be expended in accordance with the plan approved during the legislative session. The department shall prepare a report to notify the budget committees of the proposed changes in the event the department modifies the program to:

- (1) Add a new project to the construction program or development and evaluation program meeting the definition of a “major project” under Section 2-103.1 of the Transportation Article which was not previously contained within a plan reviewed in a prior year by the General Assembly and will result in the need to expend funds in the current budget year; or
- (2) Change the scope of a project in the construction program or development and evaluation program meeting the definition of a “major project” under Section 2-103.1 of the Transportation Article, which will result in an increase of more than 10 percent or \$1,000,000, whichever is greater, in the total project costs as reviewed by the General Assembly during a prior session.

For each change, the report shall identify the project title, justification for adding the new project or modifying the scope of the existing project, current year funding levels, and the total project cost estimate as approved by the General Assembly during the prior session compared with the proposed current year funding and total project cost estimate resulting from the project addition or change in scope.

Notification of changes in scope shall be made to the General Assembly concurrent with the submission of the draft and the final CTP. Notification of new construction project additions, as outlined in paragraph (1) above, shall be made to the General Assembly prior to the expenditure of funds or the submission of any contract for approval to the Board of Public Works.

MDOT Response: MDOT concurs to the recommended language.

MDOT RESPONSE TO DLS ANALYSIS

Recommended Actions – Transportation Allowance, cont.

2. Add annual language limiting non-transportation expenditures (Page 24).

It is the intent of the General Assembly that funds dedicated to the Transportation Trust Fund shall be applied to purposes bearing direct relation to the State transportation program, unless directed otherwise by legislation. To implement this intent for the Maryland Department of Transportation in fiscal 2005, no commitment of funds in excess of \$250,000 may be made nor may such an amount be transferred, by budget amendment or otherwise, for any project or purpose not normally arising in connection with the ordinary ongoing operation of the department and not contemplated in the budget approved or the last published Consolidated Transportation Program without 45-day review and comment by the budget committees.

MDOT Response: MDOT concurs to the recommended language.

3. Add annual language establishing a position ceiling in the department (Page 24).

The Maryland Department of Transportation (MDOT) shall not expend funds on any job or position of employment approved in this budget in excess of positions and contractual full-time equivalents paid through special payments payroll (defined as the quotient of the sum of the hours worked by all such employees in the fiscal year divided by 2,080 hours) of the total authorized amount established in the budget for MDOT at any one time during fiscal 2005. The level of contractual full-time equivalents may be exceeded only if MDOT notifies the budget committees of the need and justification for additional contractual personnel due to:

- (1) business growth at the Port of Baltimore and Baltimore-Washington International Airport which demands additional personnel; or
- (2) emergency needs which must be met (such as transit security or highway maintenance).

The Secretary shall use the authority under Sections 2-101 and 2-102 of the Transportation Article to implement this provision. However, any authorized job or position to be filled above the permanent position ceiling approved by the Board of Public Works shall count against the Rule of imposed by the General Assembly. The establishment of new jobs or positions of employment not authorized in the fiscal 2005 budget shall be subject to Section 7-236 of the State Finance and Procurement Article, and the Rule of .

J00 – MDOT Overview

MDOT RESPONSE TO DLS ANALYSIS

DLS Major Issues – Transportation Revenues

MDOT Response: MDOT concurs to the recommended language. However, MDOT believes that cutting positions beyond current levels is counterproductive to our overall goal of reducing operating expenses and delivering quality services. Since MDOT has no choice but to get the work done, position caps and cuts force MDOT to replace State workers with more costly contractual services.

An example may help illustrate this point. The entry level salary of an SHA Transportation Engineer is \$30 per hour (including 55% overhead), whereas fees for comparable consultant are \$50 per hour (including 140% overhead). Cost increases are not the only problem. Transportation Engineers are critical to delivering highway projects, the quality of which have a direct safety impact on the traveling public.

Another example is the SHA Shop Administrative Technician who performs inventory, supply and administrative duties for maintenance shops. The cost for temporary is \$16.22 per hour versus the cost of a permanent employee at \$12.66, including fringes.

4. Transportation Revenues in the State of Maryland

DLS recommends that MDOT explain to the budget committees why the administration failed to submit a plan for repaying the TTF as required by the BRFA of 2003. Further, given that funding for a partial repayment has been included in the fiscal 2005 allowance for the dedicated purpose account, MDOT should now discuss a detailed plan for the TTF repayment. (Page 30)

MDOT Response:

The Transportation Task Force (“Hellmann Commission”) worked during the interim to explore options for additional revenues for the TTF, including options for repayment of funds transferred to the General Fund. MDOT was hoping to have the recommendations from the Hellmann Commission in time to formulate the plan as required by the BRFA of 2003. We were remiss in not alerting the committees to the delay and asking for an extension of the deadline.

Governor Ehrlich is committed to replenishing the \$315 million to the TTF within six years. The fiscal 2005 budget includes an initial installment of \$25 million with additional reimbursements planned in future years. Other options, to supplement General Fund transfers, will be put forth as part of the Administration’s plan to solve long-term transportation needs.

MDOT RESPONSE TO DLS ANALYSIS

DLS Major Issues – Transportation Revenues, cont.

5. Assessing the Transportation Task Force’s Recommendations for Transportation in Maryland.

DLS therefore recommends that MDOT discuss its capital priorities with the budget committees, including identifying the new capital projects that would be funded if increased revenues were made available to the TTF and providing information on when each priority project would be implemented. (Page 31)

MDOT Response:

Through the Transportation Task Force effort, the Department identified \$10.5 billion worth of unfunded needs through 2010. A detailed list of unfunded projects was presented at the Transportation Task Force on August 26, 2003. This list is shown on Attachment 1.

Realizing that the \$10.5 billion number was difficult to fund, the task force determined a target of \$4.7 billion, which is 2/3 of the total unfunded needs. A new short list of projects totaling \$4.7 billion has not been developed. This decision will be determined with input from the Governor, the Secretary and members of the General Assembly.